

LAW OFFICES OF JILL R. SHELL

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February 2, 2021

Defendant's time to surrender is extended to 2 P.M. on May 15, 2021 to the institution designated by the BOP and if none has been designated then to the U.S. Marshal for this district.

BY ECF AND EMAIL

The Honorable P. Kevin Castel
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007
Castelnysdchambers@nysd.uscourts.gov

SO ORDERED.
2/3/2021


P. Kevin Castel
United States District Judge

RE: *United States v. Prospero Gonzales*, 19 Cr. 467 (PKC)

Dear Judge Castel:

On October 28, 2020, Your Honor sentenced Prospero Gonzalez to 48 months in prison for his participation in a conspiracy to distribute fentanyl, a downward variance from the applicable Federal Sentencing Guideline, and ordered Mr. Gonzalez to surrender on February 16, 2021. The BOP has designated Mr. Gonzalez to FCI Ft. Dix.

We are asking Your Honor to delay Mr. Gonzalez's surrender for 90 days to allow the BOP sufficient time to administer vaccines to Ft. Dix staff and inmates thereby improving the prison's ability to control new infections. Otherwise, Mr. Gonzalez's health puts him at unnecessary risk of contracting the virus and having serious complications.

Delaying Mr. Gonzalez's surrender is reasonable. Last month Ft. Dix had one of the highest infection rates in the Federal prison system. Each of the 11 buildings that house inmates at FCI Ft. Dix had COVID outbreaks, and last week an inmate at Ft. Dix died from COVID. Numerous complaints have been lodged about the BOP's inattention to the health of the inmates and the failure of the prison to control COVID outbreaks within its walls.¹ See Exhibit A (collecting news reports).

¹ The two counties in which FCI Ft. Dix is located, Burlington and Ocean, fare no better. Both are at "extremely high risk" for COVID infections. See https://www.nytimes.com/interactive/2021/us/burlington-new-jersey-covid-cases.html?action=click&module=covid_tracking&pgtype=Interactive®ion=TableRowLink (last visited Jan. 31, 2021); https://www.nytimes.com/interactive/2021/us/ocean-new-jersey-covid-cases.html?action=click&module=covid_tracking&pgtype=Interactive®ion=TableRowLink (last visited Jan. 31, 2021).

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As documented in our sentencing submission, Mr. Gonzalez is obese and suffers from sleep apnea. While people with sleep apnea alone are not more vulnerable to COVID-19, according to the CDC those with co-morbidities such as obesity are at greater risk of severe infection and complications.²

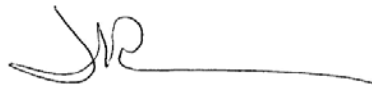
By surrendering now, Mr. Gonzalez risks becoming infected with COVID and having serious complications. While Mr. Gonzalez is unlikely to be able to receive the vaccine within the next 90 days, the BOP has started vaccinating its staff and inmates at FCI Ft. Dix, and hopefully in 90 days the risk of infection will be greatly lessened. *See* Exhibit B.

During the course of preparing this request, Pretrial Services informed me for the first time that Mr. Gonzalez has been out of compliance with the requirements of his location monitoring on numerous occasions since Christmas. Today, when Mr. Gonzalez was told that this adjournment request was going to be filed, he was warned in the strongest of terms that this conduct is unacceptable. Mr. Gonzalez acknowledged that he broke the rules, and if Your Honor grants this request, he intends to return to precise compliance. I have spoken with AUSA Samuel Raymond, and with this understanding, the Government consents to the requested adjournment.

Mr. Gonzalez knows and accepts that Your Honor has sentenced him to prison for four years, and he respectfully requests that Your Honor grant this request so that at the end of his prison term he can return to his family.

Thank you for your consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'JRS', followed by a long horizontal line extending to the right.

Jill R. Shellow

cc: AUSA Sam Raymond (by ECF and email)

² *See* <https://www.cdcr.ca.gov/covid19/wp-content/uploads/sites/197/2020/04/COVID-19-and-CPAP-Frequently-Asked-Questions.pdf>.